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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

7 IN AND FOR THE COUNTY OF WASHOE

8 HONORABLE BARRY L. BRESLOW

9 THE STATE OF NEVADA,

10 Plaintiff,

11 vs.

Case No. CR19-1535A & B

12 ROGER HILLYGUS &

13 STEWART HANDTE,

Department No. 8

14 Defendants.

15 -----/

16 TRANSCRIPT OF PROCEEDINGS

Faretta hearing

17 October 28, 2021

18 APPEARANCES:

19 For the State:

Amos Stege  
Deputy District Attorney  
1 South Sierra Street  
Reno, Nevada

21 For Defendant Hillygus:

In proper person

22 For Defendant Handte:

Thomas Pintaro  
Attorney at law  
Las Vegas, Nevada

24 Reported by:

Isolde Zihn, CCR #87

1 RENO, NEVADA, THURSDAY, OCTOBER 28, 2021, 1:05 P.M.  
2 THE COURT: Thank you.  
3 Please be seated.  
4 Deputy, do we know where the defense is?  
5 THE BAILIFF: I believe he's out, talking on the  
6 phone.  
7 THE COURT: Let him know court is in session, please.  
8 Mr. Pitaro.  
9 Court is in session. Let's get going.  
10 Deputy, do you know where Mr. Hillygus and Mr. Handte  
11 are, please?  
12 THE BAILIFF: Mr. Handte is here, I believe.  
13 DEFENDANT HANDTE: We're both here, Your Honor.  
14 THE COURT: Mr. Handte, court is in session. Would  
15 you please --  
16 DEFENDANT HANDTE: May I address the Court?  
17 THE COURT: Mr. Handte, I'm having a hard time  
18 hearing you.  
19 DEFENDANT HANDTE: May I address the Court?  
20 THE COURT: You may not address the Court. You may  
21 come in front of the bench and -- excuse me -- in front of  
22 the bar and have a seat.  
23 All right. We're on the record in case number  
24 CR19-1535, State of Nevada versus Mr. Hillygus and Mr.

1 Handte.

2 The Court recognizes Mr. Stege, for the State.

3 The Court recognizes we have Mr. Everson, who is here  
4 from Fallon, previously counsel for Mr. Hillygus. As we all  
5 know, Mr. Hillygus intended to terminate Mr. Everson's --

6 MR. EVENSON: It's Evenson, Your Honor.

7 THE COURT: Beg your pardon. -- Mr. Evenson's  
8 representation at the last hearing. I continued  
9 consideration of that.

10 Also here is Mr. Pitaro, counsel for Mr. Handte.

11 All right. Let's set the needle so we know exactly  
12 what the Court intends to do today.

13 First of all, we're going to set some ground rules on  
14 those that appear in front of this court.

15 Going forward, whatever counsel is here, or in the  
16 event either party is self-represented, we'll be here on  
17 time, whatever time court is set for. Please be here a few  
18 minutes before, so we're ready to go.

19 When the Court takes the bench, counsel and any party  
20 and any self-represented party are expected to be seated  
21 already at the table in front of the bench here, and stand  
22 when the Court takes the bench and when the Court leaves.

23 If the Court believes that somebody is intentionally  
24 violating that directive, the Court will take further steps.

1 But I don't anticipate that. Number one.

2           Number two, when we speak, we're going to make sure  
3 the other person has finished what they're saying, and then  
4 begin addressing the Court. I'll call on you. It will be  
5 your opportunity to be heard. If you ask the Court to -- if  
6 you ask for permission to address the Court, you will be  
7 heard.

8           Next. When we last were together, we were together  
9 on Zoom. In the event we have any further hearings on Zoom,  
10 whether with counsel or with parties who are  
11 self-represented, there are a couple things that will be  
12 followed.

13           One, for counsel, jacket and tie at all appearances,  
14 of course, both in the courtroom and on computer, virtual  
15 court.

16           For any party who appears, whether they're  
17 self-represented or represented by counsel, you have to  
18 address the Court as though you were in a courtroom. So  
19 while it's not inappropriate, of course, to have an American  
20 flag or Nevada flag behind you, if you so wish, any  
21 additional items, information, proclamations that speak to a  
22 political view or political approach are not allowed. So  
23 either a blank wall, a flag of the United States or the State  
24 of Nevada, but no political statements are allowed when

1 you're in court, whether physically in the court or  
2 virtually.

3           Next. When we last left, the Court conducted a  
4 hearing with respect to setting this case for trial, a  
5 pre-trial conference and a motion to confirm. We took a  
6 break because Mr. Hillygus wanted time to discuss the matters  
7 of importance to him with his then-attorney, Mr. Evenson.

8           When we returned, Mr. Evenson advised the Court that  
9 he had been terminated from services. Mr. Hillygus confirmed  
10 that.

11           I indicated -- and, further, as the Court recalls,  
12 Mr. Hillygus indicated both -- he began to give his views as  
13 to the propriety of this case going forward; also his desire  
14 to have a writ of habeas corpus brought; and also that he had  
15 other concerns with the court process.

16           Mr. Evenson correctly noted that, if I didn't  
17 officially let him out of the case at that time, there were  
18 some important deadlines coming up. For example, the  
19 November 1st deadline to file a writ petition, that being, as  
20 I understand it, 21 days after the matter was bound over to  
21 District Court by statute.

22           Because I wanted to make sure that Mr. Hillygus truly  
23 intended to fire Mr. Evenson, and because I wanted to make  
24 sure that, if Mr. Hillygus intended to seek the Court's

1 permission to represent himself -- and let me pause there.  
2 We all know that a defendant accused in a criminal matter has  
3 a constitutional right to represent him- or herself; however,  
4 that right is not without some limitations. That only occurs  
5 after a thoughtful and thorough question-and-answer session  
6 between the Court and the accused who wants to represent  
7 themselves.

8           So I wanted to make sure that, with the benefit of  
9 some further consideration, Mr. Hillygus, indeed, wanted the  
10 opportunity to represent himself, and, indeed, did want to  
11 terminate Mr. Evenson's services.

12           Now, if the answer to that here in a moment is "No,  
13 he does not want to terminate him. He's thought about it  
14 some more," or, "No, he does not want to represent himself.  
15 He wants to hire new counsel," the Court has the ability to  
16 extend the deadline for which a writ petition needs to be  
17 filed, for good cause shown.

18           In addition, if Mr. Hillygus this afternoon confirms  
19 that he meant what he said -- that Mr. Evenson's services are  
20 no longer required, and he wants to represent himself --  
21 then, if I canvass Mr. Hillygus, and I'm convinced he  
22 understands what he's doing, and I approve of his  
23 self-representation going forward, the Court then also has  
24 the discretion to find good cause to allow Mr. Hillygus

1 additional time to file his own writ petition.

2           We're also aware the Court has discretion to appoint  
3 standby counsel, which is an attorney who would join the  
4 proceedings as an aid to the Court and as an aid to Mr.  
5 Hillygus; not to give him advice at this point, not to fully  
6 prepare, but to be, essentially, standby: to be familiar  
7 with the proceedings, to be advised of what's happening, to  
8 be ready to sit at trial, and, in the event that the  
9 circumstances warrant, to take over for Mr. Hillygus as  
10 counsel at the trial.

11           The decision whether to direct standby counsel is at  
12 the Court's discretion. And, further, if the Court were to  
13 appoint standby counsel, it wouldn't necessarily be today,  
14 but it certainly wouldn't be on the eve of trial because, to  
15 do any good, that person would need some time to be aware of  
16 what's happening.

17           So if standby counsel is going to be appointed, it's  
18 not something that the Court would likely order today. The  
19 Court would just give it further consideration and make a  
20 determination as this case progressed.

21           I am aware of Mr. Hillygus' concern that the two  
22 weeks currently set for trial might not be enough because, as  
23 he indicated at the last hearing, his defense case alone, he  
24 believed, could use up the entirety of the two weeks.

1           So we have much to talk about today.

2           Now, I realize, from one perspective, Mr. Handte and  
3 Mr. Pitaro, Mr. Pitaro, who offices in the Southern part of  
4 the state, and Mr. Handte, who hasn't -- is not in the same  
5 situation, might be wondering, you know: Why are they here?  
6 Why do they need to be here on a matter that really doesn't  
7 directly affect them? The Court's view, however, is it does  
8 directly affect them.

9           The Court's decision here will be informative to them  
10 of how this case will proceed. It will be informative to  
11 them whether Mr. Hillygus will be self-represented. They'll  
12 learn what the Court's preliminary thinking is on standby  
13 counsel, in the event the Court does allow Mr. Hillygus to  
14 represent himself. And they will be informed on whether the  
15 Court extends the time necessary to file a writ petition.

16           So court appearances that the Court orders almost  
17 always will require the presence of all counsel and all  
18 defen -- and will require the appearance of all defendants.

19           So let me start it this way. I'm going to start with  
20 Mr. Evenson.

21           Mr. Evenson, have you learned anything differently  
22 from that which you advised the Court at the end of our  
23 hearing last week; namely, that your services have been  
24 terminated?



1 MR. EVENSON: No. And I have had no communication  
2 with my client of any kind, other than a courtesy hello today  
3 and confirming that he wishes to maintain the path that he  
4 was on the last time we spoke, which was on the Zoom call.

5 THE COURT: Thank you very much.

6 So let me have --

7 MR. EVENSON: Your Honor, if I could. I wanted to  
8 set one thing on the record straight.

9 The 21 days that the writ is due was not the 21 days  
10 from the first appearance. It's the 21 days from which Mr.  
11 Pitaro and I received the transcript via electronic service.

12 I just wanted to be clear about that in the record  
13 with regards to that.

14 I also wanted to state --

15 THE COURT: But it was November 1st on the deadline.

16 MR. EVENSON: The deadline is the same. The  
17 procedure of how we got there was a little different. I just  
18 wanted the record to be clear on that.

19 THE COURT: Thank you.

20 MR. EVENSON: And then, secondly, Judge, you had  
21 originally set this hearing for after the 1st. I had sent  
22 the Court an e-mail indicating that my termination put me in  
23 a difficult position in terms of preparing a writ because I  
24 don't have a client to talk to to approve it. I believe

1 there's an affidavit on some of the pre-trial writs that have  
2 to be signed. And the Court, in accommodating that e-mail,  
3 set this hearing for this date and time.

4 I wanted that to be clear on the record, as well.

5 THE COURT: Thank you. I think that's all accurate.

6 As I've indicated, however this hearing shakes out --  
7 whether Mr. Hillygus ends up representing himself going  
8 forward; or whether his thinking has changed, and he  
9 indicates to the Court he'd like to continue, with your  
10 permission, to have you represent him; or if the Court  
11 appoints right now standby counsel, although that's  
12 unlikely -- the Court will address the issue of good cause to  
13 extend the deadline for any writ petition to be filed.

14 Okay. Nobody is to be handicapped by the fact that  
15 we had a change of circumstances at the last hearing, nor  
16 that this hearing took us a week to put together.

17 Yes, Mr. Pitaro.

18 MR. PITARO: Your Honor, let me just address you  
19 first concerning the writ.

20 Do you want us to wear our masks --

21 THE COURT: When you're addressing the Court, you can  
22 pull it down or take it off.

23 MR. PITARO: All right. The last court we were in up  
24 here said we had to wear it.

1 THE COURT: In Department 8, not when you're  
2 speaking.

3 MR. PITARO: The first thing is, as far as the writ  
4 goes, I have been in communication all along with Mr. Stege.  
5 And he and I agreed to extend the time of the writ 30 days on  
6 both ends.

7 THE COURT: Thirty days after this hearing, or 30  
8 days from whenever it would have been --

9 MR. PITARO: From the 1st, when it was due, an  
10 additional 30 days.

11 THE COURT: Okay.

12 MR. PITARO: During that period of time, I had told  
13 Mr. Stege, and confirmed today, that I thought I would have  
14 the writ done by next Friday.

15 So that is something that he and I had been  
16 discussing as sort of a normal thing that attorneys do in  
17 these things.

18 That's it. So I don't know how that's going to play  
19 into where we go.

20 I would like to say, though, being in court and  
21 standing, with sitting outside that court for an hour and a  
22 half, my wife is in Colorado because her sister is very, very  
23 sick, and just before you walked in -- you weren't on the  
24 bench -- she called me from Colorado to give me an update of

1 her sister, and then you walked in. So there was no intent  
2 to stay outside the courtroom or to show disrespect.

3 As a matter of fact, that chair out there I carried  
4 from around there so I'd have a place to sit for the last  
5 hour and a half. That's the second thing.

6 The third thing is, I asked you -- when the Court  
7 left at the last hearing, Mr. Handte wanted to speak to the  
8 Court. I asked the clerk to ask the Court to come back so he  
9 could do that. I was told that, for whatever reason, the  
10 Court was not coming back, so that was sort of it. Because  
11 now I'm up in the air with Mr. Handte as now -- may be or may  
12 not be; I don't know -- in the same position as with  
13 Hillygus. And I think that's what Mr. Handte wanted to  
14 address the Court for then.

15 In the interim, him and I have been going back and  
16 forth. One day I'm here, one day I'm not, is really where we  
17 are. What I had suggested to him is that I would get -- no  
18 matter what, it would be unwise to terminate me before I  
19 filed the writ. But he wanted to review the writ before he  
20 made any decision on that. I sent him a rough copy last  
21 night on the writ, which would have some other items plugged  
22 in to it, but the essence of it is there. So I don't know  
23 where I stand, either, on it.

24 And that was the reason why I wanted to -- then let

1 me just say this. As far as the date, we were asked if that  
2 was a convenient date. Actually, it wasn't. I sent an  
3 e-mail up that this was a rough date for me.

4           Quite truthfully, I was supposed to be in a  
5 settlement conference down in Las Vegas on a murder case.  
6 That's one of the reasons I wanted to put this off, or at  
7 least do it by Zoom. I honestly don't know why I couldn't  
8 have done it by Zoom, but you're the judge. But I missed  
9 that thing. People that work for me and other attorneys are  
10 saying we can go through with Zoom, we can resolve this  
11 murder case through the settlement process. I was up here.  
12 It's difficult to get a time because we have to get a  
13 settlement judge agree to come in and a time to set it up.

14           But, nevertheless, that's where -- you are now  
15 updated on where I'm coming from. When I made my request, it  
16 wasn't frivolous. And as I said, I've been up here since --  
17 took the 8:00 o'clock flight out. And I've been up here, got  
18 off the plane, and been here waiting.

19           So I don't know if the Court wants to hear from Mr.  
20 Handte now, or what the Court's pleasure is. He said that he  
21 wanted to speak and address -- I don't know, really, what  
22 he's going to address as far as that, but --

23           THE COURT: Sorry to cut you off. But remember we  
24 took a break during the Zoom hearing -- first, have a seat,

1 if you would. Thank you.

2 Let me just go through in order.

3 Number one, thank you for explaining why you were a  
4 few minutes late to court. And I hope your wife and her  
5 family are and stay well.

6 Two, thank you for explaining that.

7 Three, you know, I wasn't trying to single out  
8 anybody or any particular event. I just want to remind  
9 people of what the Court expects.

10 I grew up in the Federal Court system, clerked for a  
11 federal judge. Maybe you've heard of him. His name is  
12 Howard McKibben. If you weren't in court five minutes before  
13 court was supposed to start, you were late. And so that's  
14 sort of how I roll. Not every judge is like that, not every  
15 judge in the South, not every judge in the North. But here,  
16 for all involved -- Mr. Stege knows this, as well -- I very  
17 much appreciate people being in here ready to go a few  
18 minutes before we start.

19 Thank you for explaining that. I'm sorry that you  
20 had to wait.

21 These types of hearings, though, generally, are in  
22 person. And, in addition, the defendants need to be here in  
23 court whenever we have hearings in the courthouse. If we're  
24 doing them on Zoom, of course, they can do them on Zoom just

1 like everybody else.

2           Now, with respect to your situation, so, let's go  
3 back in time. Mr. Hillygus last week had concerns, and he  
4 wanted to address them with the Court. And I said, "We're  
5 taking a break. You can talk to your attorney about it, and  
6 we'll come back. And with your attorney's permission, you  
7 can address the Court directly, or your attorney can advise  
8 what the issue was that you wanted to bring to the Court's  
9 attention." Or as we later learned, it was something  
10 else: that Mr. Evenson's services had been terminated.

11           I offer the same opportunity to you and Mr. Handte.  
12 We can break here in a short while, and you can have an  
13 opportunity to discuss with Mr. Handte whether he, like Mr.  
14 Hillygus, intends to terminate your professional services.

15           If he does, though, we're going to set that for a  
16 hearing, but it's not going to be today. The Court had this  
17 set for a certain amount of time. I have another matter  
18 after this. And that's going to have to be another hearing  
19 at another time, with people back in the courthouse.

20 And that's anywhere along the process. He doesn't have to  
21 decide today. He can decide it in a week or two weeks or  
22 three weeks. He can decide it after the writ is filed.

23           But he should know that one of the factors the Court  
24 looks at in determining whether this is a knowing,

1 voluntarily, fairly made request to avail yourself of your  
2 constitutional rights, the Court looks at the timing, how  
3 close -- how far the case has gone. You know, they were just  
4 arraigned, so it's pretty early. If it was on the eve of  
5 trial, a different story. If it's somewhere in the middle,  
6 then we have to -- it's a little bit more gray.

7           So let me ask this of Mr. Handte. Would you like,  
8 sometime shortly, the Court to take a recess, allow you and  
9 your current attorney to go in the jury room and speak  
10 between yourselves for a few minutes, and then come back and  
11 either he advise the Court or you advise the Court at that  
12 time?

13           DEFENDANT HANDTE: Well, Your Honor --

14           THE COURT: Would you mind putting the mask down so  
15 we can hear you better?

16           Thank you.

17           DEFENDANT HANDTE: Okay to speak?

18           THE COURT: Yes, sir.

19           DEFENDANT HANDTE: Well, Your Honor, this could have  
20 been addressed last time, but, for whatever reasons, it  
21 wasn't. I mean, as you stated previously in your discussion  
22 this afternoon, this is a co-defendant case, with both  
23 counsels present. Mr. Evenson and Mr. Hillygus got their  
24 opportunity to speak, but Mr. Pitaro and I didn't. And I



1 felt that was a violation of my due process.

2           So if that's something that can be addressed today,  
3 yes. But, I mean, we were both waiting for some sort of  
4 information to come back from you, Your Honor, and you were  
5 gone.

6           THE COURT: I don't understand anything you've just  
7 said, other than you're upset.

8           DEFENDANT HANDTE: I'm upset to a certain degree.

9           THE COURT: Let's unpack it. What exactly -- it's  
10 really a yes-or-no question. Would you like the opportunity  
11 to discuss your position, as having represented -- a  
12 represented defendant in this case, with your attorney during  
13 a break here shortly? Yes, you do, or no, you don't.

14           DEFENDANT HANDTE: Certainly. As I stated last time,  
15 I would like that opportunity, as well.

16           THE COURT: Fair enough. I'll give you the  
17 opportunity in just a few minutes, sir.

18           You may have a seat.

19           All right. Mr. Hillygus, if you wouldn't mind,  
20 please, when I address you, would you please stand up and  
21 slide your mask down so we can hear you and see you better.

22           The first question is: Is it still your intention to  
23 terminate the services of your attorney? Yes or no?

24           DEFENDANT HILLYGUS: Your Honor, I'm appearing here

1 by divine special appearance.

2 THE COURT: Please stop --

3 DEFENDANT HILLYGUS: I reserve all of my federal  
4 rights --

5 THE COURT: Please stop talking.

6 MR. EVENSON: Just answer the question. You can go  
7 over all this later, if you want to appeal --

8 THE COURT: Really, at this point --

9 MR. EVENSON: -- but for right now the best thing you  
10 can do is answer his questions.

11 DEFENDANT HILLYGUS: I object to this hearing.  
12 There's been two media requests filed. There's a media  
13 motion that's been filed --

14 THE COURT: Mr. Hillygus, if you don't --

15 DEFENDANT HILLYGUS: -- and there's a media request  
16 that has been filed --

17 THE COURT: If you're disruptive of the court, I'm  
18 going to hold you in contempt, in which case the deputy is  
19 going to take you into custody, and you're going to have a  
20 couple-hour cooling-off period downstairs. I don't want  
21 that, and you don't want that.

22 I know you have a view of things. And there may be a  
23 time to do that. But this is not the time or the place.  
24 This is the time to tell me "Yes" or "No." Because, you

1 know, if you continue this way, then I might find that I have  
2 some concerns about your competency to go forward, whether  
3 self-represented or with counsel, and in which case I hit the  
4 pause button, and I direct you for a psychological  
5 evaluation. I'm not there yet. I think you got this far in  
6 the process. You seem to be a pretty bright fellow. You  
7 have strong views on how things should be. But if you don't  
8 follow the Court's direction, we're going to have problems,  
9 and I don't want that.

10           So here's my question, please: Do you want your  
11 attorney to -- do you want to confirm what you tried to do  
12 last week; namely, terminate his services?

13           DEFENDANT HILLYGUS: That's correct.

14           THE COURT: All right. Based on that, the Court will  
15 allow the termination of Mr. Evenson. He is relieved of  
16 duties as your counsel of record in this matter. He has no  
17 further obligation to represent you, assist you, or be  
18 involved in this case any further.

19           MR. EVENSON: I have to give him his file and those  
20 kind of things, obviously.

21           THE COURT: Say that one more time.

22           MR. EVENSON: I have to give him his file and meet  
23 those obligations and things.

24           THE COURT: Whatever your professional obligations

1 are --

2 MR. EVENSON: Right. I want to make sure he knows  
3 that I'm going to do all that, make sure everything goes  
4 smoothly.

5 Thank you.

6 THE COURT: Mr. Evenson, you're free to go.

7 MR. EVENSON: Thank you.

8 THE COURT: Thank you very much.

9 Best of luck to you, sir.

10 So the next process, now, Mr. Hillygus, is: Do you  
11 intend to represent yourself, or would you like more time to  
12 consider hiring a new attorney?

13 DEFENDANT HILLYGUS: I'm going to proceed on my own,  
14 Your Honor.

15 THE COURT: All right. Now, for me to allow that to  
16 happen, you and I have to have a discussion. I have to ask  
17 you some questions about your understanding of what you want  
18 to do.

19 The United States Supreme Court has said you have a  
20 constitutional right to represent yourself. But the Court,  
21 before it allows you to do so, needs to be convinced that you  
22 understand what you're doing.

23 So I am going to have the court clerk administer an  
24 oath to you to truthfully answer my questions with respect to

1 your desire to represent yourself. Then I will ask you  
2 questions.

3 I'd like you to keep standing. If you'd rather be  
4 seated when I ask you these questions, you certainly have the  
5 Court's permission to do so.

6 Ms. Schuck, would you please administer the oath of  
7 witness to Mr. Hillygus.

8 THE CLERK: Yes, Your Honor.

9 (Defendant Hillygus sworn.)

10 THE COURT: Thank you very much.

11 You may put your hand down.

12 Just give me a moment, please, sir.

13 All right. Let's start with this. Would you please  
14 remind me, Mr. Hillygus, how old you are.

15 DEFENDANT HILLYGUS: I am a few weeks from 55.

16 THE COURT: Okay. Scorpio?

17 DEFENDANT HILLYGUS: Yes, sir.

18 THE COURT: How far did you go in school?

19 DEFENDANT HILLYGUS: I've got multiple degrees,  
20 college degrees, bachelor degrees, fire science degrees, AA  
21 degrees.

22 THE COURT: And your profession was as a firefighter,  
23 or is it still a firefighter?

24 DEFENDANT HILLYGUS: No. I'm retired from State

1 service. I served the State 30 years.

2 THE COURT: Okay. And what position -- what was the  
3 last position you held?

4 DEFENDANT HILLYGUS: Firefighter for the Nevada  
5 Division of Forestry.

6 THE COURT: Have you ever been charged with a crime  
7 before this case?

8 DEFENDANT HILLYGUS: No.

9 THE COURT: Have you ever been in a lawsuit, a civil  
10 lawsuit, either as the plaintiff, the claimant, or the  
11 defendant?

12 DEFENDANT HILLYGUS: Not before the last seven years.  
13 It's all about what this case revolves around.

14 THE COURT: Understood. A family matter.

15 DEFENDANT HILLYGUS: Yup.

16 THE COURT: Are you in good health for a man your  
17 age?

18 DEFENDANT HILLYGUS: Yes.

19 THE COURT: Are you taking any medicine that would  
20 make it difficult for you to understand either today what is  
21 happening in court, or do you believe taking medicine that in  
22 the immediate future would impair your ability to represent  
23 yourself?

24 DEFENDANT HILLYGUS: I do not take any medication

1 that would prevent me from representing myself.

2 And I object to the question, being a HIPAA  
3 violation, if I were.

4 THE COURT: Okay. Are you today under the influence  
5 of alcohol or controlled substances?

6 DEFENDANT HILLYGUS: No. I do not take any kind of  
7 substances. Not under the influence.

8 THE COURT: Are you sick or injured today?

9 DEFENDANT HILLYGUS: No.

10 THE COURT: Do you have any diagnosed mental health  
11 issues that you believe would impair your ability to  
12 represent yourself?

13 DEFENDANT HILLYGUS: Once again, I object to this  
14 hearing, and I object to the questions regarding my HIPAA  
15 rights and my medical records and my medical -- anything  
16 regarding my medical.

17 But I do not have anything in my records that would  
18 prevent me from representing myself.

19 THE COURT: Okay. Has anyone threatened you or  
20 anyone close to you to make you waive your right to have an  
21 attorney represent you in this matter?

22 DEFENDANT HILLYGUS: Not that I'm aware of.

23 THE COURT: Has anybody made any promises to you to  
24 have you waive your right to an attorney in this matter?

1           DEFENDANT HILLYGUS: No.

2           THE COURT: Mr. Stege, do you have a copy of the  
3 charging document handy?

4           MR. STEGE: Not a hard copy, Your Honor.

5           THE COURT: Do you have a copy electronically?

6           MR. STEGE: Yes.

7           THE COURT: Please pull that up.

8           MR. EVENSON: Your Honor, I have a copy of the  
9 Complaint -- Information from his file. That is the one  
10 filed on September 7th, at 9:07 a.m.

11          THE COURT: Please approach.

12          Thank you.

13          The reason is, I just want to make sure --

14          MR. STEGE: Thank you, Mr. Evenson.

15          MR. EVENSON: Yes, sir.

16          THE COURT: -- this is of record. This is the  
17 Information that was filed in this matter.

18          And you were arraigned recently and entered a plea of  
19 not guilty, but I want to make sure you understand that, if  
20 you represent yourself, these are the charges that the State  
21 is going to attempt to prove with evidence beyond a  
22 reasonable doubt.

23          DEFENDANT HILLYGUS: Okay. I object. I did not  
24 enter a plea. I was asked that yes-or-no question, and I



1 answered "Yes." But I did not enter a plea of not guilty.

2 THE COURT: Did you enter a plea, at all?

3 DEFENDANT HILLYGUS: I did not enter a plea. I was  
4 questioned under a yes-or-no question if that was my  
5 intention. But I did not enter a plea.

6 I'm innocent. This is my mother. I rescued my  
7 mother from a facility. I did not kidnap my mother. I loved  
8 my mother. I took great care of her. She was being  
9 neglected and abused. And I went to the police, and the  
10 police told me this was a civil matter.

11 So I proceeded to go and ask my mother if she wished  
12 to leave, and she said yes --

13 THE COURT: Let's do this, Mr. Hillygus.

14 DEFENDANT HILLYGUS: So I'm innocent of any charges.

15 THE COURT: Well, the Court understood you to plead  
16 not guilty. If it turns out that you believe that you have  
17 not yet entered a plea and need to be re-arraigned, I'll let  
18 you make that motion at a later time. It sounds like you  
19 might be headed there. But right now I don't see anything  
20 improper or infirm with the manner in which you were  
21 arraigned and this matter set for trial.

22 So let me just ask you this: Are you aware, if you  
23 represent yourself, the State is going to attempt to prove  
24 Count I, conspiracy to commit second-degree kidnapping?

1           DEFENDANT HILLYGUS: At this point, I'd like to enter  
2 an objection to any further questions regarding this process.

3           If they could be put down on paper, the questions, so  
4 that I have ample opportunity to review them and make a  
5 proper response after I've had time to understand completely  
6 the questions written, in a written form, so that I can  
7 analyze the wording, and be able to properly respond.

8           THE COURT: Well, I'm not going to give you that  
9 opportunity. And here's why. This is -- if you're saying,  
10 "Judge, I need more time to prepare for the hearing under the  
11 Faretta case, a United States Supreme Court case, which  
12 specifically directs a judge in a criminal matter that  
13 somebody who is accused of a crime or crimes, who wants to  
14 represent themselves, to make sure they understand what  
15 they're looking at, the challenge, to understand what would  
16 be required of them," that's what this hearing today is for.

17           Now, if you weren't aware that that's what we would  
18 be doing today, then I will -- we can pause this, and we can  
19 come back in a week or two, and you can familiarize yourself  
20 a bit more with what we will be doing.

21           But today is the day for this Court to be convinced  
22 that you're in a position to represent yourself.

23           DEFENDANT HILLYGUS: I appreciate that, and I  
24 understand. And I do want to object to this hearing. And I

1 filed a document in this court, in this case, regarding this  
2 objection to this hearing today.

3 I checked the docket. I did not see that this was on  
4 there. I was not informed until two days ago from -- Court  
5 Services told me that there was a hearing today. So I am  
6 unprepared, and I do want to set this for a time where I have  
7 ample opportunity to be able to properly represent and answer  
8 the questions.

9 THE COURT: So, okay, let me just --

10 DEFENDANT HILLYGUS: I was not given proper notice or  
11 service of this hearing today per the Rules of Civil  
12 Procedure 5 (a).

13 THE COURT: Okay. Sometimes a little bit of  
14 information or knowledge can be worse than no knowledge at  
15 all. Let's just make sure we're on the same page.

16 I've already granted your request to discharge your  
17 attorney.

18 The next step is to decide whether I appoint somebody  
19 else to represent you, or I appoint standby counsel, or I  
20 allow you to represent yourself. For the Court to make an  
21 informed decision, we have to have a hearing. At that  
22 hearing I have to ask you some questions while you are under  
23 oath. Once I get the answers and consider the responses  
24 you've given and how you've given them and the amount of

1 thought you've given to this process, then I make an informed  
2 decision whether to allow you to represent yourself or not.

3           We're at the point of this hearing, Mr. Hillygus,  
4 where I simply ask you if you're aware of what the charges  
5 are against you, and you've given thought to the fact that  
6 the State is going to attempt to prove these charges.

7           So most people, by the time they've gotten this far  
8 in the case, the matter has been bound over, you are already  
9 arraigned, and we had a hearing already, are generally aware  
10 of the charges that they're facing.

11           Now, if you need more time to familiarize yourself  
12 with the charges or to familiarize yourself to give further  
13 thought to whether you want the Court to appoint somebody to  
14 represent you, I may be inclined to postpone this for one or  
15 two weeks. But whatever -- whether we go forward today or  
16 whether we postpone it for one or two weeks, we need some  
17 finality here so we know who will be representing you, or  
18 you'll be representing yourself.

19           Whatever you filed, the reason it may not have  
20 been -- show up on the record, multiple different reasons.

21           It could be -- Mr. Hillygus?

22           DEFENDANT HILLYGUS: I need to get my documents that  
23 I filed to make sure I can provide them to you, Your Honor.

24           THE COURT: So, Mr. Hillygus, you're being a little

1 too informal with the Court at this point.

2           DEFENDANT HILLYGUS: I've got a question, Your Honor.  
3 Is this a closed hearing?

4           THE COURT: I don't think it's a closed hearing.

5           DEFENDANT HILLYGUS: Then why are these people not  
6 allowed in?

7           THE COURT: I don't recall ordering that this would  
8 be a closed hearing, but before I double --

9           DEFENDANT HILLYGUS: There's two media motions that  
10 have been filed --

11          THE COURT: Hold on.

12          DEFENDANT HILLYGUS: Is the media here?

13          THE COURT: Mr. Hillygus, just a moment, please.

14          Mr. Stege, you have been in Faretta hearings before.  
15 You have to answer out loud.

16          MR. STEGE: Yes, Your Honor.

17          THE COURT: Are they generally closed, or are they  
18 open to the public?

19          MR. STEGE: They're open. They're open.

20          THE COURT: This is not like a Young hearing where --  
21 those are closed.

22          MR. STEGE: As sort of a framework, they're entirely  
23 different, Your Honor.

24          THE COURT: All right. So this is not a closed

1 hearing.

2           DEFENDANT HILLYGUS: May I submit this to the clerk,  
3 Your Honor?

4           THE COURT: In a moment.

5           DEFENDANT HILLYGUS: This has been filed into the  
6 court record.

7           THE COURT: Well --

8           DEFENDANT HILLYGUS: This has been filed into the  
9 court record.

10          THE COURT: Let me explain how this works.

11          When somebody is represented by counsel, they're not  
12 allowed to file anything on their own, so if it was --

13          DEFENDANT HILLYGUS: This was filed by an  
14 organization. This is a media motion for the media to be  
15 present. That's why I'm objecting to this hearing today.

16          THE COURT: Okay. Well, the Court hasn't excluded  
17 the media, as far as I know.

18          Well, let me say it another way. The Court has not  
19 excluded the media.

20          If you're wondering what the interaction was between  
21 the court staff and the media, it was that this could not  
22 be -- we couldn't have cameras in here because I hadn't  
23 received a proper request consistent with court protocol.

24          But it's not a closed hearing. People can observe

1 this court proceeding.

2 All right. Now, let's continue. If I grant a  
3 postponement of one week or two weeks, we will come back  
4 here, and the same types of questions that I've asked you  
5 already will be asked of you to make sure the Court  
6 understands whether you are in a position to represent  
7 yourself or not.

8 So we can go forward now. Or, if you say, "Judge, I  
9 really need another week to understand exactly what I'm  
10 doing, to understand better what types of questions to  
11 anticipate to understand the charges against me," I may be  
12 inclined to do that. But we're going to be back here in  
13 person for the Court to canvass you consistent with United  
14 States Supreme Court precedent on the things that I have to  
15 be assured of before I allow you to represent yourself.

16 So, taking all that, would you like another week, and  
17 this matter set out so that we can have this hearing at that  
18 time, with full recognition that that's an inconvenience to  
19 counsel for your co-defendant here, assuming he remains  
20 counsel? If he doesn't, we could marry up the Faretta  
21 hearing on both you and your co-defendant, if that's the way  
22 things go.

23 DEFENDANT HILLYGUS: Your Honor, I would ask, if we  
24 do set this for a date, it be the week after whatever the 9th

1 would be. The week after the 9th.

2 THE COURT: The 9th of November?

3 DEFENDANT HILLYGUS: Yes. That's a little more than  
4 a week out.

5 THE COURT: All right. Let me do this. Before I  
6 make a decision on that, I want to hear from Mr. Stege.

7 And then I am going to take a recess to give Mr.  
8 Handte and his counsel, Mr. Pitaro, an opportunity to discuss  
9 among themselves whether Mr. Pitaro is going to continue in  
10 this case, as well.

11 But before we take a recess, Mr. Stege, what is your  
12 view of the request to possibly postpone this hearing for a  
13 few weeks to allow Mr. Hillygus to better understand what  
14 this hearing is all about?

15 MR. STEGE: I have to say I'm against it, Your Honor.

16 And the factual legal bases are as follows: As a  
17 legal basis, we are in sort of the infancy of a case in its  
18 District Court life. There are important guidelines -- I'm  
19 sorry -- time lines that are pending.

20 I think the tenor of what we've gotten today is not a  
21 lack of understanding from Mr. Hillygus, but a different  
22 attitude towards the Court, an attitude towards the Court of  
23 sort of defiance, as opposed to answering direct questions.

24 The right to represent yourself, the sort of standard



1 of knowing and voluntary, is not a high standard. It  
2 requires a conversation between the Court and the defendant.  
3 And I submit that today we have seen the defendant is not  
4 willing to engage in that canvass or that dialogue with the  
5 Court.

6           Secondarily, I would note for the Court within the  
7 Justice Court life of this case Mr. Hillygus went through a  
8 Faretta canvass. He's been through a Faretta canvass,  
9 understands what it is, was able to pass, if you will --  
10 that's not the exact terminology, but to demonstrate to the  
11 Justice Court Justice of the Peace Ryan Sullivan that he was  
12 sufficiently able and prepared, and able to represent  
13 himself, a thing which he did for a time down below.

14           Mr. Hillygus has been through a number of lawyers  
15 down below. So the idea of what a Faretta canvass is is not  
16 new to him. That's demonstrated by the record.

17           The Court should also -- I don't know the extent to  
18 which the Court is aware of the civil matters or the  
19 underlying related civil matters. In that context, Mr.  
20 Hillygus also represented himself. A long history of  
21 representing himself there; a history which includes the  
22 Court's finding that Mr. Hillygus is a vexatious litigant.

23           So I would suggest not a continuance is in order, but  
24 maybe a little -- a firmness from the Court in insisting on

1 getting to the heart of the Faretta hearing.

2 THE COURT: All right. Thank you.

3 The Court will be in recess until 2:00 o'clock.

4 During the break, certainly, I would ask the deputies  
5 to allow Mr. Pitaro and Mr. Handte opportunity to visit by  
6 themselves in the jury room.

7 Please, everyone, be ready to resume the hearing  
8 promptly at 2:00 o'clock.

9 Court will be in recess until then.

10 (Recess.)

11 THE COURT: Thank you.

12 Please be seated.

13 Mr. Hillygus, when the Court takes the bench in the  
14 future, the deputy directs people to rise out of respect, I  
15 wish you would please do that from now on, sir. Do you  
16 understand, sir?

17 DEFENDANT HILLYGUS: With respect, Your Honor, there  
18 are challenges to jurisdiction.

19 My counsel, my previous counsel, Mr. Evenson,  
20 challenged the judge's jurisdiction to even transfer this  
21 case to this court. I have challenged that judge's --  
22 Justice of the Peace Ryan Sullivan, her jurisdiction was  
23 challenged on the record, and it's been filed into the case  
24 as a transcript.

1 I have challenged this jurisdiction of this court, as  
2 well, explaining this is a federal matter, and, therefore,  
3 any orders that come from this court, it's my understanding,  
4 are null and void because this court lacks jurisdiction.

5 THE COURT: Okay. All right.

6 Ms. Zihn, would you please read back the Court's  
7 question.

8 (The question was read.)

9 THE COURT: All right. That was the Court's  
10 question.

11 So would you please stand up and answer my question.  
12 Yes, you understood what the Court said, or, no, you did not.

13 DEFENDANT HILLYGUS: I understood what the Court  
14 said, but I disagree with it.

15 THE COURT: All right. Thank you.

16 From this point forward, when the Court takes the  
17 bench, I'll expect you to rise. If you don't, the Court will  
18 consider holding you in contempt of court. Do you understand  
19 that, sir?

20 DEFENDANT HILLYGUS: I do.

21 THE COURT: All right. Thank you.

22 Now, Mr. Hillygus, I do have additional questions for  
23 you in light -- well, let me back up. I'm going to --  
24 actually, at this point, why don't I hear from Mr. Pitaro.

1           Have you had a chance to talk to Mr. Handte over the  
2 break, Mr. Pitaro?

3           MR. PITARO: Yes, Your Honor. And if the Court --

4           THE COURT: Do me a favor. I can't hear you well,  
5 nor can I see you.

6           MR. PITARO: Mr. Handte has informed me he wishes me  
7 to remain as counsel.

8           If the Court wants to confirm that with Mr. Handte,  
9 I'm sure he will be more than happy to stand up and tell you.

10          THE COURT: Thank you.

11          Mr. Handte, again, if you'd kindly slide down your  
12 mask while you do so.

13          Have you had a chance to discuss with your attorney  
14 whether you would like him to stay on?

15          DEFENDANT HANDTE: I have.

16          THE COURT: And will he be staying on at this point?

17          DEFENDANT HANDTE: Correct.

18          THE COURT: Thank you very much.

19          You can have a seat.

20          Mr. Hillygus, you heard what Mr. Stege said before we  
21 took the break. He advised the Court -- this is something I  
22 was unaware of -- namely, that you had represented yourself  
23 in other legal matters, and that you had undergone a canvass,  
24 a question-and-answer in another court pursuant to Faretta.

1 Did you hear Mr. Stege say that?

2 DEFENDANT HILLYGUS: I did, Your Honor.

3 THE COURT: And was that accurate? Had you already  
4 represented yourself in a previous legal matter?

5 DEFENDANT HILLYGUS: I have.

6 THE COURT: Have you already been questioned pursuant  
7 to Faretta about your willingness and ability to be your own  
8 attorney?

9 DEFENDANT HILLYGUS: I was questioned, yes, I was.

10 THE COURT: All right. Then we're going to proceed  
11 today. So we're going to continue. I'm not going to  
12 postpone this hearing.

13 Mr. Handte --

14 DEFENDANT HANDTE: Handte.

15 THE COURT: -- confirmed that Mr. Pitaro remains his  
16 counsel. We're going to move forward.

17 I'm going to go over the allegations that were  
18 brought against you by the State of Nevada Information, and  
19 then I'll ask you if you heard the Court.

20 Count I is that you conspired to commit second-degree  
21 kidnapping.

22 Are you aware that that is one of the charges the  
23 State seeks to prove in this matter?

24 DEFENDANT HILLYGUS: That's an allegation that they

1 have made.

2 THE COURT: Understood.

3 Number two, they've also sought, in Count II, an  
4 allegation that you committed the crime of burglary under  
5 Nevada law.

6 Are you aware of that?

7 DEFENDANT HILLYGUS: Yes.

8 THE COURT: Are you aware that, in Count III of the  
9 charging document, they have accused you of the crime of  
10 second-degree kidnapping of an older or vulnerable person  
11 under Nevada law?

12 Are you aware of that?

13 DEFENDANT HILLYGUS: That's what they've put in their  
14 documents.

15 THE COURT: Okay. They've also accused you, in Count  
16 IV, of the crime of preparing or delivering simulated legal  
17 documents.

18 Are you aware of that?

19 DEFENDANT HILLYGUS: I am aware of that.

20 THE COURT: Count V, sir. Are you aware that the  
21 State has accused you of the crime of preparing or delivering  
22 simulated legal documents, a violation of law under Nevada  
23 law?

24 DEFENDANT HILLYGUS: I am of the understanding that

1 this was an Assembly Bill, and that's part of their  
2 Complaint, and so it was not a law. So I will object that it  
3 was a law. It was an Assembly Bill cited in their Complaint,  
4 and I don't believe that Assembly Bills are law.

5 THE COURT: Are you aware that the State intends to  
6 prove or is going to try to prove that you violated Nevada  
7 law by preparing or delivering a simulated legal document, a  
8 violation of Nevada Assembly Bill 15?

9 DEFENDANT HILLYGUS: This law did not exist at the  
10 time that the documents were filed, so the Legislature hadn't  
11 even created the Assembly Bill.

12 THE COURT: That may be an Assembly Bill, that may be  
13 a defense to the claim, but are you aware that's something  
14 the State intends to seek?

15 DEFENDANT HILLYGUS: That's what they're attempting  
16 to seek, yes.

17 THE COURT: Thank you.

18 And then, Count VI, are you aware the State intends  
19 to seek conviction for the felony crime of preparing or  
20 delivering simulated legal documents, a violation of -- in  
21 other words, another count of the same charge.

22 Are you aware of that, sir?

23 DEFENDANT HILLYGUS: These charges and these counts  
24 were objected to by my prior counsel that the court lacked

1 jurisdiction because they did not provide or bring the proper  
2 person, which would have been the Clerk of the Court of the  
3 Second Judicial District. These documents that they're  
4 claiming are simulated were legally filed.

5 THE COURT: Okay.

6 DEFENDANT HILLYGUS: There's no simulation.

7 THE COURT: Are you aware that, in Count VI, that's  
8 the charge they intend to seek to prove?

9 DEFENDANT HILLYGUS: That's, again, harassment on --  
10 that they're harassing me, is what I believe.

11 THE COURT: Yes or no: Are you aware the State  
12 intends to seek to prove that?

13 DEFENDANT HILLYGUS: That's what they're attempting  
14 to prove.

15 THE COURT: Fair enough.

16 And then, finally, the last count, Count VII, the  
17 same charge.

18 Are you aware of that, sir?

19 DEFENDANT HILLYGUS: Yes.

20 THE COURT: All right. Now, do you understand you  
21 have a right to legal representation to defend you against  
22 these charges free of cost to you, if you are found indigent;  
23 in other words, if you're found to have lack of resources or  
24 the money to pay for your own attorney?



1           DEFENDANT HILLYGUS: I am aware that there are those  
2 public defenders. But I'm also aware that there's money set  
3 aside by the court to provide assistance for people, as well,  
4 with not somebody from the County, but a private counsel.  
5 But there are other options, yes. I'm aware of those, as  
6 well.

7           THE COURT: Fair enough.

8           Are you aware of what the potential sentence range is  
9 in the event of a conviction on some or all of the charges  
10 against you?

11          DEFENDANT HILLYGUS: I couldn't state it  
12 specifically, but I realize that there is prison time  
13 involved.

14          THE COURT: Did you and Mr. Evenson at any time go  
15 over what the potential sentencing range was on any or all of  
16 the charges against you?

17          DEFENDANT HILLYGUS: No.

18          THE COURT: Mr. Stege, I ask you to assist the Court  
19 here with the sentencing range for each of the separate  
20 counts. If you have that committed to memory, if you could  
21 identify. If you need a few minutes to look it up and write  
22 it down, you can let the Court know when you are at that  
23 point in time.

24          MR. STEGE: Count I is a one-to-six-year potential

1 penalty, if convicted.

2 Count II, one-to-10-year penalty, a Category B  
3 felony.

4 Count III is a Category B felony. That is a  
5 two-to-15, with a consecutive up to one-to-15 for the  
6 older/vulnerable person enhancement.

7 The various counts of preparing or delivering  
8 simulated legal documents are all Category D felonies, a  
9 one-to-four-year potential punishment.

10 THE COURT: These being Counts IV through VII;  
11 correct?

12 MR. STEGE: Yes, Your Honor.

13 THE COURT: So, Mr. Handte, let me make sure you're  
14 going to wrap your head around this. I beg your pardon. Mr.  
15 Hillygus.

16 The State intends to prove charges which, if they  
17 were successful, and the jury finds unanimously with evidence  
18 beyond a reasonable doubt as to all of these, the maximum  
19 potential sentence you would be facing is 62 years in prison,  
20 eligible for parole no more than 40 percent of that time.

21 Six years on Count I; 10 years on Count II; 15 years  
22 on Count III; enhancement of possible 15 years consecutive,  
23 on Count IV; and then Counts IV, V, VI and VII, four years  
24 each, that's 16 more. So it's six plus 10, which is 16, plus

1 30, plus another 16.

2           The maximum potential sentence that you're looking  
3 at, in the event the State proves all these charges with  
4 evidence beyond a reasonable doubt to a unanimous jury and  
5 are sentenced, and in the event the Court were to find just  
6 cause to sentence you to the maximum and run them consecutive  
7 to each other, you would be looking at up to 62 years in the  
8 Nevada Department of Corrections. Do you understand that,  
9 sir?

10           DEFENDANT HILLYGUS: Yeah. That's more than I would  
11 even live. That's the rest of my life.

12           THE COURT: Okay.

13           DEFENDANT HILLYGUS: For caring for my mother.

14           THE COURT: Okay. But for purposes of the Court  
15 making an informed decision on whether to allow you to  
16 represent yourself, I want to make sure you know what it is  
17 the State intends to prove or is seeking to prove. And you  
18 heard what the Court said: 62 years. Do you understand  
19 that, sir?

20           I'm not saying that you would be convicted on all  
21 charges. I'm not saying that the State would ask for the  
22 maximum. I'm not saying that the State would ask that these  
23 be run consecutive. I'm not saying the Court would have any  
24 specific view or sentence. I'm just saying that I want to

1 make sure you understand what the potential maximum sentence  
2 is that you're facing in the event of a conviction on all  
3 counts. Do you understand that?

4 DEFENDANT HILLYGUS: I heard Mr. Stege. I heard you,  
5 Your Honor. I did hear Mr. Stege explain to you the time  
6 frames. And I also heard him explain that I've had multiple  
7 attorneys or counsels representing me.

8 But how can you get due process when Mr. Stege is  
9 withholding evidence, exculpatory evidence, which I will use  
10 to exonerate myself?

11 THE COURT: Well, we can have that discussion at  
12 another time, because whether the State is meeting its burden  
13 to produce evidence that the law requires it to produce to a  
14 defendant accused of a crime, that's something for a  
15 different time.

16 Right now the Court has to be satisfied that you know  
17 what you're doing, and you're making an informed, intelligent  
18 decision.

19 The intelligent decision is a product of your  
20 background, experience, education and job. That's why I  
21 asked you those questions.

22 Informed is to make sure you know what you're looking  
23 at. And you're looking at potentially 62 years in prison.  
24 Okay?

1           DEFENDANT HILLYGUS: I'd like to make a record, Your  
2 Honor.

3           THE COURT: It's really a yes-or-no question at this  
4 point. But what type of record?

5           DEFENDANT HILLYGUS: It's a violation of Brady versus  
6 Maryland, 1963. It's a Brady disclosure violation for the  
7 prosecution to withhold evidence from the accused and able to  
8 exonerate myself. So that's what I'm explaining.

9           THE COURT: We may have a hearing on whether the  
10 State has met its burden or not with respect to its  
11 obligation under federal law, Brady or otherwise.

12           But do you understand you're looking at potential 62  
13 years in prison?

14           And if you don't answer that question, I'm going to  
15 assume that the answer is "Yes"; you're just choosing not to  
16 answer.

17           DEFENDANT HILLYGUS: Sixty-two years. I'm 55, so the  
18 rest of my life. There you go. Sixty-two years. Yup, I  
19 understand.

20           THE COURT: Thank you.

21           By the way, there's water on your table. If we run  
22 out of bottles, let us know, and we'll get you all the  
23 bottles you want.

24           Now, you have the right to represent yourself under

1 the United States Constitution, subject to the Court's  
2 finding that it's been intelligently -- it's a decision  
3 intelligently made. But I want to make sure that you  
4 understand that, if you do end up representing yourself, you  
5 are responsible for knowing and complying with the same  
6 procedural rules as lawyers, and you cannot generally expect  
7 the Court to help guide you. Do you understand that, sir?

8 DEFENDANT HILLYGUS: I understand there's rules. And  
9 I intend to follow those rules.

10 And one of the rules is conspiring or colluding with  
11 Mr. Stege, because that's what my attorneys have done, both  
12 of them. They have behind the scenes, without my  
13 authorization, had numerous communications with Mr. Stege,  
14 and have -- I've not been informed of that.

15 So if that's what that means, then I'd like to have  
16 communication, as well, with Mr. Stege.

17 THE COURT: Well, my question went more to: There  
18 are certain procedural rules, the Nevada Rules of Criminal  
19 Procedure, rules of the court, rules that might be in any  
20 pre-trial order I issue, rules that are set forth under local  
21 rules of practice. Those are the rules.

22 DEFENDANT HILLYGUS: And there are Supreme Court  
23 rules, as well, that involve media requests and having  
24 cameras. And I object to this hearing not having media here

1 and not being open to the public.

2 I'm an accused. I have rights. One of those rights  
3 is to have a public hearing. And not having cameras in here,  
4 and having two media requests, is a violation of my rights.

5 So I am objecting, and I want to make a record that's  
6 appealable that this Court should not continue with this  
7 hearing because there are two media requests, and my rights  
8 under Stevens versus -- Stevens versus Media, LLC, versus the  
9 Eighth Judicial District Court is a case involving my rights  
10 to have this an open hearing and have the media present and  
11 have cameras present in the courtroom.

12 THE COURT: All right. Let me respond to that.

13 First of all, this is an open hearing. Open hearing  
14 is different than having cameras in the courtroom. But it's  
15 open. Anyone can walk in and sit and watch what's happening  
16 here. That's different than having cameras in here.

17 But I'm going to give you a little bit of leeway  
18 here, Mr. Hillygus, but my patience is not infinite. I'm  
19 going to explain something to you about contempt of court  
20 under Nevada Revised Statute 22.

21 If you're being obstructionist, if you are  
22 disregarding Court directives, if you are attempting to in  
23 any way make a mockery of these proceedings, it's within the  
24 Court's jurisdiction, if this is done in my presence, after a

1 warning, to hold you in contempt of court and to punish you  
2 on the spot. And that might include having to wait  
3 downstairs in the holding cell for a couple hours until you  
4 understand that what you're doing can no longer be tolerated.

5 I'm asking you simple questions to make sure you  
6 understand that, if you're going to represent yourself, it's  
7 a very weighty decision. I don't want you to take it  
8 lightly.

9 Whether the future hearings I'll allow cameras in the  
10 court, maybe I will; maybe I won't. Whether the hearings are  
11 open to the public, they are now, and I expect them to be at  
12 every hearing.

13 Whether Mr. Stege has to collaborate with you and  
14 provide Brady material or any other material that the law  
15 requires him to produce, he's aware of his obligations. And  
16 if you bring to the Court's attention and you find that he  
17 hasn't met them, I'll consider it, and I'll make a decision.  
18 If I find that the State breached that obligation, they'll be  
19 sanctioned. Okay.

20 So let's just continue with this hearing under  
21 Faretta, we'll get through it, and the Court will make a  
22 decision whether you're allowed to represent yourself.

23 I do not want to hold you in contempt. I do not want  
24 you taken out of here in handcuffs. I do not want to put you



1 in a holding cell. I want to respect your ability to  
2 understand what I'm saying and just truthfully answer my  
3 questions.

4 So let's move forward.

5 DEFENDANT HILLYGUS: I completely understand, Your  
6 Honor. And I'm not here to disrespect you or the court. I'm  
7 just voicing my -- I'm exercising my rights.

8 THE COURT: There will be a time and place to state  
9 your view of things, but right now is the time and the place  
10 to answer my questions whether you understand what you're  
11 doing by representing yourself. So let me move forward here.

12 A defendant who represents themselves in a criminal  
13 matter loses the right to any appeal with respect to  
14 ineffectiveness of counsel because they're their own  
15 attorney. Do you understand that?

16 DEFENDANT HILLYGUS: I do. And that's why I've had  
17 to recuse two attorneys: because of ineffective assistance  
18 of counsel.

19 THE COURT: Do you understand the State will be  
20 represented by a prosecutor in this case who is experienced,  
21 well-versed in courtroom procedures, has many trials under  
22 his belt, and will have an advantage of legal education and  
23 experience that you won't have? Do you understand that?

24 DEFENDANT HILLYGUS: If you're referring to Mr.

1 Stege, I would object. That he has made numerous violations  
2 of his ethical obligations in this case. He's perjured  
3 himself. He's made comments to people that have been  
4 overheard by witnesses. That he should be sanctioned for the  
5 way he's handled himself in this case.

6 THE COURT: Do you understand he has legal education?

7 DEFENDANT HILLYGUS: I believe that he was -- went to  
8 law school at Boyd School of Law, in Las Vegas, but I could  
9 stand corrected.

10 THE COURT: Well, that's legal education. Do you  
11 realize he's a member -- a licensed member of the Nevada Bar?

12 DEFENDANT HILLYGUS: For how much longer I don't  
13 know. But he probably is, if he is holding a position as a  
14 prosecutor for this county.

15 THE COURT: Okay. Do you understand that somebody  
16 who represents themselves, particularly somebody without  
17 significant legal training, may not make effective use of all  
18 their rights, may make tactical decisions that work to their  
19 disadvantage, and may take approaches that produce unintended  
20 consequences? Do you understand that?

21 DEFENDANT HILLYGUS: I understand that Supreme Court  
22 rule that I have the right to pro hac vice; and that I do not  
23 want to make mistakes; and that there are a lot of rights  
24 that I have. And I'm going to attempt to exercise all of

1 those; especially my federal rights.

2 THE COURT: Do you understand that the Court has the  
3 right, but not the obligation, to appoint standby counsel,  
4 which you heard me mention when we first started this  
5 hearing, which would be a licensed Nevada attorney who would  
6 be available to assist you during the trial, maybe even the  
7 days leading up to trial, in the event the Court believed  
8 that you would benefit from their assistance, and if you  
9 asked for the Court's directive to that attorney?

10 In other words, I have the right to appoint somebody  
11 even over your objection to sit next to you and be there as a  
12 backup. Do you understand that?

13 DEFENDANT HILLYGUS: There is -- I do understand  
14 about standby counsel, and that is an option. But I waive  
15 that at this time.

16 THE COURT: Do you understand that the Court, even  
17 over your objection, can appoint standby counsel, if I  
18 thought the interests of justice so required?

19 DEFENDANT HILLYGUS: If that would be your  
20 preference, that's your decision. I would find that to be an  
21 appealable decision. And I would promptly appeal that, if  
22 that was your decision.

23 THE COURT: Do you understand that, if you represent  
24 yourself, and if the case proceeds to trial, and if you're

1 convicted on some or all of the charges against you, that you  
2 generally have 30 days to appeal the decision, the judgment  
3 of conviction, to a higher court?

4           DEFENDANT HILLYGUS: The 30-day rule is part of the  
5 Nevada Rules of Civil Procedure Rule 59 -- or 58, I believe,  
6 is -- yeah, I'm familiar with that rule.

7           THE COURT: Do you understand that you have a right  
8 to plead guilty, to change your response to the Court  
9 before -- which the Court interprets to be a not-guilty plea,  
10 which is why the case was set for trial -- you have a right  
11 to change your plea to guilty on some or all of the charges.

12           You also have a right to plead no contest to some or  
13 all of the charges.

14           You also have a right to plead, essentially, what we  
15 call guilty, but by reason of insanity. Although there may  
16 be a different term to explain that at this point.

17           Mr. Stege, is that still how it's referred, or is it  
18 mental disability or --

19           MR. STEGE: I think you're referring to guilty, but  
20 mentally ill being a defense -- I'm sorry -- being a plea of  
21 guilty, a variety of a plea of guilty.

22           THE COURT: That's also an option. Sometimes people  
23 accused of crimes plead guilty, but mentally ill, for some or  
24 all charges against them. I want to make sure that you

1 understand those pleas would be available to you whether you  
2 represent yourself or whether you have counsel. Do you  
3 understand that, sir?

4 DEFENDANT HILLYGUS: Changing a plea is something  
5 we've discussed here today, and I understand that. I'm  
6 innocent; so, therefore, no need for a plea.

7 I am being retaliated against by the Reno police and  
8 the District Attorney's Office because I have filed a case  
9 that has been docketed with the United States Supreme Court.  
10 And this is retaliation for a federal Complaint that I filed  
11 that went all the way up and was docketed with the Supreme  
12 Court of the United States.

13 THE COURT: But let me ask you this, though. Again,  
14 for your view of things, we have a time and place. But,  
15 again, I want to make sure you're aware, for purposes of the  
16 Court's decision whether to allow you to represent yourself,  
17 that you have pleas available to you not just guilty or not  
18 guilty. You also have the right to plead no contest or nolo  
19 contendere. You have the right to plead guilty, but mentally  
20 ill. Those are some options available to you. Do you  
21 understand?

22 THE DEFENDANT: Yes, I do. Pleas are available. And  
23 I'm innocent.

24 THE COURT: All right. The Court finds that Mr.

1 Hillygus is competent to waive his constitutional right to be  
2 represented by an attorney.

3           The Court further finds that Mr. Hillygus is waiving  
4 his right to counsel freely, voluntarily and knowingly; and,  
5 further, that Mr. Hillygus fully appreciates and understands  
6 the waiver of his right to counsel and the consequences.

7           The Court further finds that Mr. Hillygus is aware  
8 the Court has the right, but not the obligation, to be  
9 appointed standby counsel.

10           The Court further finds Mr. Hillygus understands the  
11 Court may appoint standby counsel even over his objection.

12           All right. Mr. Hillygus, you may have a seat.

13           Now, let's talk about the deadline for writs.

14           Because of the fact that Mr. Hillygus discharged his  
15 attorney -- he attempted to do so last week; confirmed  
16 today -- because of the fact that counsel apparently has  
17 already -- for Mr. Handte has reached an agreement with the  
18 State to extend a period of time to file a pre-trial writ,  
19 and for other reasons of good cause, the Court is prepared to  
20 likewise extend Mr. Hillygus' deadline to file any pre-trial  
21 writ to the same amount of time.

22           Let's make sure we all know what that is, and let's  
23 see if that time needs to be tweaked for a little longer.

24           What exactly, again, please, Mr. Pitaro, is the

1 agreement? Was it that you have 30 days from the hearing  
2 last week to file the writ, 30 days from the date the  
3 transcript was filed, or some other stipulation?

4 MR. PITARO: I think, Your Honor, the agreement was  
5 30 days from the 1st, so it would be whatever -- well, I  
6 guess it would be November 1st, then. We agreed to that.  
7 But what I told Mr. Stege was that I would -- I anticipated  
8 having my writ in well before then.

9 THE COURT: Well, not November 1st. November 1st is  
10 in a few days.

11 MR. PITARO: When is the writ due?

12 DEFENDANT HILLYGUS: December 1st.

13 THE COURT: Mr. Stege, what is the agreement, please?

14 MR. STEGE: The rule states 21 days from the  
15 arraignment; however, that can be extended for good cause.  
16 And a per se good cause is the time from -- a delay in the  
17 filing of the --

18 THE COURT: -- transcript.

19 MR. STEGE: -- the transcripts --

20 THE COURT: But there are other bases.

21 MR. STEGE: Separately -- and I was explicit with Mr.  
22 Pitaro that this was an agreement between himself and me, and  
23 not to be leveraged against the other defendant, because of  
24 the strong working relationship that Mr. Pitaro and I have

1 now and have had historically in the practice. So we  
2 agreed -- so it would be 30 days beyond what -- that 21 plus  
3 the filing of the writ. So sounds like we can agree to 30  
4 days from November 1st. That doesn't sound like there will  
5 be an issue.

6 THE COURT: So November 30th or the nearest court  
7 date thereafter.

8 MR. PITARO: Right. What I was telling the Court  
9 was, I told Mr. Stege I planned to beat that date and try to  
10 get it -- I'll get it in by this Friday. But if I don't, I  
11 will confer with him as to why. But the 30 days will work,  
12 and that will be fine.

13 MR. STEGE: And the corresponding agreement that I  
14 have a similar amount of time to respond to Mr. Pitaro's --

15 MR. PITARO: That's correct.

16 MR. STEGE: -- brief.

17 THE COURT: So, then, Mr. Hillygus, if you would  
18 stand up again, please, for a moment.

19 Let's make sure we understand this.

20 The agreement that Mr. Handte's counsel and the State  
21 have reached is that the deadline for the defense for Mr.  
22 Handte to file a writ --

23 DEFENDANT HANDTE: Handte.

24 THE COURT: -- is November 30. That's Tuesday,



1 November 30. That's more than a month from now.

2 So the question is: Are you requesting of the Court  
3 a similar amount of time?

4 And then I'll hear from the State what his response  
5 is.

6 Mr. Hillygus.

7 DEFENDANT HILLYGUS: I agree with the time frame, and  
8 I will provide a writ prior to or by that date.

9 THE COURT: Okay. I'll deem that a request.

10 So, Mr. Stege, your position.

11 MR. STEGE: I am opposed to the full 30 days.

12 I believe the only factual basis the Court would have  
13 for finding good cause would be the time between when we were  
14 here last with Mr. Evenson and today's date to extend for  
15 good cause, in addition to the delay in the filing of the  
16 transcript. That is a jurisdictional issue, Your Honor.

17 In this district and by the rule, if that deadline is  
18 missed, then there is no basis -- the Court cannot consider  
19 such a writ.

20 THE COURT: Wait. Run that by me again. Because  
21 you've stipulated to extend it with Mr. Handte's counsel.

22 MR. STEGE: With Mr. Pitaro, who I have known for  
23 quite some time.

24 THE COURT: And if you don't stipulate, the Court

1 still has the discretion for good cause shown.

2 MR. STEGE: To extend for good cause, yes.

3 THE COURT: To extend for good cause.

4 MR. STEGE: Yes.

5 THE COURT: Are you suggesting the Court should not  
6 extend for good cause to the full length of November 30, but  
7 rather some shortened amount?

8 MR. STEGE: Some shortened amount of time, that being  
9 between this sort of the breakdown, sort of looking out --

10 THE COURT: Which is about 10 days, roughly.

11 MR. STEGE: About 10 days from that Mr. Evenson was  
12 in limbo or -- and/or Mr. Hillygus was without  
13 representation. Recognizing the Court may be reluctant to do  
14 such a --

15 THE COURT: Well, we have a holiday. We have  
16 disagreement between counsel and former counsel and his  
17 client. We have a date from which the Court will operate for  
18 purposes of expecting Mr. Handte's --

19 DEFENDANT HANDTE: Handte.

20 THE COURT: -- writ, and also your response to have a  
21 similar amount of time -- to be extended by a similar amount  
22 of time.

23 MR. STEGE: Yes.

24 THE COURT: You may have a seat.

1 I understand your position. Unless there's something  
2 else you want to say.

3 MR. STEGE: Only to counter that, Your Honor, I am  
4 more aware of Mr. Hillygus' long and difficult and trying  
5 experience with this court, with the tenor, volume and --

6 THE COURT: Well, I've only seen Mr. Hillygus three  
7 times.

8 Once was for an arraignment. I did note that he was  
9 wearing a mask that had some type of a message on there that  
10 I may have overlooked --

11 MR. STEGE: Right.

12 THE COURT: Hold on. -- I may have overlooked the  
13 first time. But we're not going to do that in the future.  
14 We're going to wear a neutral-colored mask. We don't, as a  
15 district, allow people to wear masks that have any particular  
16 viewpoint or political statement. White, black, blue, that's  
17 pretty much it.

18 Then I saw him on Zoom. And he was obviously upset  
19 with how things were going. And we dealt with it. We set it  
20 over to today. So today is the third time.

21 So I don't have a long -- particularly long history  
22 with Mr. Hillygus. We're just getting to know each other.

23 But you've brought to the Court's attention some  
24 other proceedings. I've taken note of that for purposes, for

1 example, of proceeding with the Faretta hearing today.

2           Having said that, I interrupted you, but please  
3 continue.

4           MR. STEGE: Only to say that in all -- in matters  
5 like this, it is within the discretion of the prosecutor to  
6 extend that courtesy to counsel.

7           I would not want the Court -- I would not want it to  
8 be the case that that then is seen as good cause for the  
9 extension of opposing or the other defendant so that --  
10 because the result is going to be, Your Honor --

11           THE COURT: I know. But every time you extend a  
12 professional courtesy to Mr. Handte's counsel because of a  
13 good working relationship, maybe Mr. Hillygus will expect the  
14 similar treatment. And you don't have that kind of  
15 relationship with him or his prior counsel.

16           MR. STEGE: And the next case or the tenth case from  
17 now when someone asks, I said I'm not going to do that  
18 because I would not want it to be used against me for your  
19 co-defendant, who I have -- whatever reason I have for not  
20 extending such a courtesy.

21           THE COURT: Okay. I understand where you're coming  
22 from.

23           MR. STEGE: Thank you.

24           THE COURT: Mr. Hillygus, I'll give you a chance to

1 respond briefly.

2           You have ears; you've heard what was just said.  
3 You're expected to -- now that you're representing yourself,  
4 these are the types of issues that are going to come up.

5           Let me tell you the Court's understanding.

6           We have as an agreement between your co-defendant and  
7 his attorney and Mr. Stege where co-defendant's writ is due  
8 on or before November 30. That's a professional courtesy  
9 extension that Mr. Stege afforded to your co-defendant.

10           He doesn't have the same relationship with you. He  
11 doesn't have the same relationship with your former counsel.  
12 He's suggesting that, if I give you more time, it's not the  
13 full amount of the 30 days, because we should treat your  
14 situation differently.

15           I noted -- you heard me say it -- that we have a  
16 holiday between, Thanksgiving holiday. Also the fact that  
17 things, unfortunately, went sideways between you and Mr.  
18 Evenson recently.

19           Mr. Stege is saying, "Well, Judge, just use this  
20 period of time that things went sideways." Because Mr. Stege  
21 didn't know, apparently, that we were doing anything last  
22 week other than deciding when the trial would be. So he says  
23 20 days, not 30, even though Mr. Handte gets 30 from today.

24           What do you say?

1           DEFENDANT HILLYGUS: I'm going along with what the  
2 Court's recommendation was for co-counsel for the November  
3 30th.

4           And I'm trying to be accommodating of everybody here,  
5 and I believe that I should have some accommodation, as well.  
6 And I'm attempting to provide the Court with what they need  
7 to make proper decisions. And I've agreed to the 30th. I'd  
8 like the Court to stand with that.

9           THE COURT: You want to stick with that.

10          Mr. Stege, one more time. With Mr. Handte and his  
11 counsel --

12          DEFENDANT HANDTE: Handte.

13          THE COURT: -- what would be the deadline for you to  
14 respond to the writ, please?

15          MR. STEGE: I'm sorry. Could you repeat the  
16 question?

17          THE COURT: Sure.

18          When is your deadline, then, to respond to the writ  
19 to be filed on or before November 30 by Mr. Pitaro?

20          MR. STEGE: Forty days.

21          THE COURT: Forty?

22          MR. STEGE: Yes.

23          MR. PITARO: If I may interrupt.

24          MR. STEGE: That's going to be December 30th-ish. I

1 think Mr. Pitaro --

2 THE COURT: Because he might file his early.

3 MR. STEGE: Yes. And I think he's giving me the  
4 courtesy, should he give the full 30, that I'm not filing  
5 mine on December 30th.

6 MR. PITARO: What it was, Your Honor, under the  
7 statute, gives the State 10 days to respond and file their  
8 return to the potential habeas corpus, because I was asking  
9 for the additional 30 days. But I agreed and we agree -- or  
10 we discussed and I agreed that, if need be, he should have  
11 the additional 30 days beyond his time limit also to make --

12 THE COURT: It would be 40.

13 MR. PITARO: It would be 40. But that would be what  
14 it is. If I file it early, and he wants to file it before  
15 that time, then that's fine. But if he wants to take all 40  
16 days, I would have -- I agree that he would be entitled to it  
17 under our agreement. That's all.

18 THE COURT: Fair enough. Thank you.

19 Thank you, Mr. Stege.

20 It's the order of the Court as follows: The Court  
21 finds good cause under the unique circumstances of this case  
22 to afford -- to go along with the stipulation between Mr.  
23 Handte's --

24 DEFENDANT HANDTE: Handte.

1           THE COURT:  -- counsel and Mr. Stege, and to afford  
2 Mr. Hillygus the same.  For this one time.

3           It's no guarantee, Mr. Hillygus, that any agreement  
4 reached between counsel for the State and counsel for Mr.  
5 Handte --

6           DEFENDANT HANDTE:  Handte.

7           THE COURT:  -- would inure to your benefit, as well.  
8 They may, but, you know, they may not.  But for purposes of  
9 the writ, and then the response from the State, it will be  
10 the same with respect to the State and to you as it is with  
11 the State in respect to Mr. Handte.

12           So one more time.  The deadline to file any writs  
13 that the statute contemplates for writs of habeas corpus at  
14 this point in the proceeding for both defendants shall be on  
15 or before November 30.  And the State would then have 10  
16 days, plus an additional 30, to file its response from the  
17 date the writ is filed.  If the writ is filed, the writ  
18 petition is filed before November 30, the State has 40 days  
19 from that date.

20           Now, Mr. Hillygus, as a self-represented litigant,  
21 you must set up, if you don't already have one, an eFlex  
22 account with the Court.  If you don't know how to do that or  
23 don't know what is involved, you need to find your way over  
24 to the --



1           DEFENDANT HILLYGUS: I have one, Your Honor.

2           THE COURT: You have one. All right. Because  
3 service on you will now occur electronically. When the Court  
4 issues an order, we'll serve electronically. When the State  
5 files anything, it will be served electronically. When Mr.  
6 Handte files something on you, it's served electronically.

7           Similarly, when you file something, you file it  
8 electronically, and service occurs, you know, automatically,  
9 through the two eFlex accounts of counsel. Do you understand  
10 that?

11           DEFENDANT HILLYGUS: I do, Your Honor.

12           And I did receive the order for this hearing to be on  
13 November 3rd, but, as I stated earlier, I did not receive  
14 anything that it had been changed to today, so.

15           THE COURT: Well, I'm glad you got the message. We  
16 moved it up so we could -- for a lot of reasons: the writ  
17 deadline was coming up; so counsel could have clarity on  
18 their obligations; so we didn't have to delay this any  
19 further.

20           Now, listen carefully. I'm not necessarily inviting  
21 this, but I want to explain something to you. At the last  
22 hearing you mentioned you were concerned with the amount of  
23 time this case was set for trial. I want to bring to your  
24 attention something.

1           Right now we are set for two weeks. The date stands  
2 that we have. The motion to confirm date will be that set  
3 automatically based on the trial date. I will send out an  
4 order -- today is Thursday afternoon before a three-day  
5 weekend -- probably Monday that will set a pre-trial  
6 conference; in other words, another date where we come to  
7 court and go over what needs to be gone over. That pre-trial  
8 conference date will be before, obviously, the trial and  
9 before the motion to confirm trial date.

10           So there are three dates right now: The trial date  
11 that we set in May; the motion to confirm date that will be  
12 either early May or late April; and a pre-trial conference.  
13 I'll send out an order. It's going to be set mid-April.

14           Because Mr. Evenson was the one that potentially had  
15 a conflict, personal conflict, in the event the case ran  
16 long, and because he's been relieved as counsel, if this case  
17 goes long -- and I don't know if it will; I don't know if it  
18 won't -- but if it goes more than two weeks, I think we're  
19 good. The Court has availability. There's not any  
20 particular logistical conflict. There's no big calendaring  
21 issue that I'm aware of.

22           So the concerns you expressed last week, Mr.  
23 Hillygus, that we might be short-changing your ability to  
24 present a defense, I want you to know that I'm aware of your

1 concern, and right now I think we're good to go.

2           When we get closer, and at the pre-trial conference,  
3 we'll button everything up on what the trial days will be,  
4 but right now it's as set last week.

5           All right. We've done pretty much everything that  
6 the Court wanted to accomplish today.

7           Mr. Pitaro, it looks like you'd like to address the  
8 Court. Go ahead, sir.

9           MR. PITARO: Yes, Your Honor. Just a couple things.

10           First, Mr. Handte would -- you're mispronouncing his  
11 name. And he would like to tell you --

12           THE COURT: I beg your pardon. I'm not -- I don't  
13 mean to be disrespectful. You heard I called Mr. Hillygus'  
14 lawyer Mr. Everson for about two days.

15           MR. PITARO: I understand, Your Honor. You should  
16 hear what I get called.

17           Nevertheless, Stewart, if you could please stand and  
18 tell -- take the thing down and tell the Court the  
19 pronunciation of your name.

20           MR. EVENSON: Very simply, Your Honor, Hand-T.

21           THE COURT: Hand-key.

22           DEFENDANT HANDTE: No "key." T. H-a-n-d, hand, and  
23 then a T.

24           Not like Hankey, from "South Park."

1           MR. PITARO: That was bothering him. I thought I  
2 would bring it to the Court's attention.

3           The second thing I would like, Your Honor, is I  
4 anticipate that I would be filing certain motions that would  
5 be requiring an evidentiary hearing. I'm not sure how you  
6 would handle evidentiary hearings.

7           Would they be calendared before, or do you normally  
8 do evidentiary hearings right before the trial, when you have  
9 the time?

10          THE COURT: Good question. Here's my answer: It  
11 depends. Depends on if I'm in trial on another case. It  
12 depends if I'm here. It depends on a few things.

13          Normally what I'll do is, I'll set -- well, an  
14 evidentiary hearing that will go beyond one day?

15          MR. PITARO: No, I don't think so.

16          THE COURT: We usually use this final pre-trial  
17 conference a week or two before the motion to confirm, we use  
18 that for any pending, yet undecided motions, and we use it  
19 for a date for an evidentiary hearing. If it turns out we  
20 need two days, we can extend the pre-trial conference. I  
21 wouldn't normally suggest you set it for earlier than the  
22 final pre-trial conference week.

23          MR. PITARO: Because, obviously, if we need to bring  
24 an expert in, we have got to confirm with them the date, and

1 I didn't want it floating out there. I assume that was what  
2 the Court would do. So any motions that we file that -- any  
3 motions, period, we use the return date. But we have to give  
4 them an opportunity to respond, so that we file a motion two  
5 weeks before to give the State time to respond. How do you  
6 want the filing aspect of it, is what I'm saying.

7 THE COURT: So we reverse-engineer. Whatever date we  
8 pick, whatever date -- on Monday the order goes out for the  
9 final pre-trial conference. You have to calculate backwards  
10 to file your motion at least three weeks before that date,  
11 response from the State at least a week before that date, so  
12 the Court can prepare. Whatever date we pick, I'll give you  
13 a full day.

14 MR. PITARO: Okay. I just wanted to know what dates  
15 to put in when you file it, instead of having -- the third  
16 thing is, I mentioned -- I'm not sure the Court has any  
17 control over it, but what Mr. Hillygus ran into was a  
18 problem.

19 When I went to the court's calendar with the eFlex  
20 account, the only order on there was a November 3rd order.  
21 That November 3rd order was issued after our hearing.

22 THE COURT: So it confused you.

23 MR. PITARO: Yes. It not only confused me, but I  
24 have to tell you the truth, it confused the Washoe County

1 Clerk's Office, because by last night they weren't sure. And  
2 I said, "It's not coming up." Because we had -- when we saw  
3 that, we thought it was going on the 3rd. I notified Mr.  
4 Handte it was the 3rd. I cancelled my reservations for  
5 today, set them for the 3rd. And then we went back and  
6 forth, we did it there.

7           The reason is, what the calendar says -- and I don't  
8 know if this is how they normally do it -- but there was the  
9 entry on your calendar that said the hearing was vacated for  
10 today. And then there was another one that, it was the same  
11 thing, but with no space. So the question that was the  
12 confusion: Was the vacated one the right one or the not one?

13           Then, when I went to the other calendar, they call it  
14 the master calendar, that was even different than your  
15 calendar in the sense that that is why I called the Clerk's  
16 Office finally. And they had to bring a supervisor in, and  
17 he basically threw his hands up and said, "We'll make  
18 sure" --

19           THE COURT: First of all, I apologize for the  
20 confusion.

21           MR. PITARO: I'm just --

22           THE COURT: We'll try to get our act together on a  
23 go-forward basis.

24           Here's what I can tell you, though. The person you

1 want to e-mail, with copies to the State and copies to  
2 self-represented defendant, Mr. Hillygus, you can e-mail my  
3 judicial assistant, if you have a procedural, logistical or  
4 time question. Not substantive, not your view of how this  
5 case should be, or anything like that.

6 But if you say, "What time is the hearing next  
7 Tuesday?" she will e-mail you back and say, "10:00 o'clock."  
8 "What time is the" -- because your calendar, one says 10:00,  
9 the other says 11:00, she'll e-mail you back. So she'll have  
10 the final say.

11 So I apologize for the confusion.

12 I'm glad everyone made it here today.

13 And as I mentioned before, I hope your family is  
14 well.

15 MR. PITARO: Appreciate that.

16 We did call your JA, and she gave us today. That was  
17 the thing. But then, when the calendar had to vacate, then  
18 November 3rd was the only one out there, it got a bit  
19 confusing.

20 I made it, but I just wanted the Court to know that  
21 that was, I think, one of the confusing things for me, which  
22 then went to re-confusing him, and maybe Mr. Hillygus was  
23 likewise confused.

24 THE COURT: Got it. So, as I said, don't give up on

1 us. We'll try to do better.

2 MR. PITARO: And one other request.

3 THE COURT: Go ahead.

4 MR. PITARO: If it's possible to do it by a Zoom, I  
5 would appreciate that courtesy, if you give it.

6 The reason I said I could do the 20th on a Zoom was  
7 because my murder matter was at 9:00, and would normally end  
8 by 12:00, so that I could do the Zoom at 1:00. But it became  
9 a bit difficult getting up here.

10 And for the Court to realize, the early-morning  
11 flights from Vegas to Reno, apparently they only do them  
12 during the legislative session, because they don't have those  
13 5:00 o'clock flights we used to be able to get on to make a  
14 9:00 o'clock appearance.

15 So I just throw that out to you --

16 THE COURT: Thank you.

17 MR. PITARO: -- so you understand our position.

18 THE COURT: The final pre-trial conference will be in  
19 person.

20 MR. PITARO: Okay.

21 THE COURT: The motion to confirm, Mr. Stege, you've  
22 done some lately. Chief Judge Freeman was doing them. I  
23 don't know who the next Chief Judge will be, because Chief  
24 Judge Freeman's term, I believe, ends here this year. I



1 don't know if the next Chief Judge will be doing them in  
2 person or by Zoom. How has Judge Freeman been doing them?

3 MR. STEGE: Every one I've been to has been over  
4 Zoom. And I would say quite effectively.

5 THE COURT: Okay. So there's a chance that, really,  
6 the only times you have to come up here again would be the  
7 final pre-trial conference/hearing on any pending  
8 motions/evidentiary hearing, and then the trial.

9 And let me just add this. You'll hear it a couple  
10 times along the journey that we're all going to have  
11 together. But whatever trial date we start on, we're on that  
12 trial flight. That means we either start on the first day of  
13 that trial flight or we start the first Monday, we start the  
14 second Monday of that trial flight, or we start the third  
15 Monday of that trial flight. So we will have greater  
16 visibility at the motion to confirm.

17 But I want to tell you this. We open up the  
18 courtroom, I open up the courtroom here the week before your  
19 trial because, (a), you're going to be here anyway marking  
20 exhibits, and then, (b), so you can -- I mean, you're here  
21 now, you can see the lay of the courthouse and how we roll.  
22 But just to get more familiarity with it, make sure that  
23 people understand -- I'll be out here. I'll visit with you  
24 all.

1           We talk where you stand when you're addressing the  
2 jury, where you stand when you're addressing a witness --  
3 that's particularly important for Mr. Hillygus as  
4 self-represented -- how we do our jury voir dire, the  
5 questioning of the potential jury panel, when you're expected  
6 to get your jury instructions in, all those type of things.

7           So, at a minimum, we'll see you at trial, and we'll  
8 see you at the final pre-trial conference, which I'll give  
9 you a whole day. All right.

10           I think that's all I have for now.

11           Mr. Stege, anything else?

12           MR. STEGE: Thank you, no.

13           THE COURT: Mr. Hillygus, anything else?

14           DEFENDANT HILLYGUS: I do have something else, Your  
15 Honor. Quick question. Is this -- is there a JAVS recording  
16 of this hearing today?

17           THE COURT: We don't have JAVS in this courtroom.

18           DEFENDANT HILLYGUS: Okay. So I see the court  
19 reporter. So is everything that the court reporter is taking  
20 down available to me through a transcript?

21           THE COURT: Yes. So, generally, she prepares and  
22 files transcripts at the Court's direction.

23           When somebody orders it, Ms. Zihn, how does that  
24 work, please?

1 THE COURT REPORTER: When I have time, I will do this  
2 transcript, and it will be filed.

3 THE COURT: Okay. Thank you.

4 And we have a lot of hearings, a lot of cases. And  
5 if something is a priority, I reach out to her, and I say,  
6 "Ms. Zihn." "Yes, Judge?" "Please make this a priority.  
7 Put this at the top of the list." If it's sort of in the  
8 usual course, I say, "Just get to it as soon as you promptly  
9 can." Do you understand that?

10 DEFENDANT HILLYGUS: Yeah. I'd like to get it as  
11 soon as I can, so --

12 THE COURT: Ms. Zihn.

13 While we keep talking, she has to keep taking it down  
14 on her machine.

15 I'm not going to ask her to use extraordinary  
16 measures to get this transcript filed. I'll just remind her  
17 to put this next in order and see if she can get to it in the  
18 very near future.

19 DEFENDANT HILLYGUS: I appreciate that.

20 THE COURT: You're welcome.

21 MR. PITARO: Your Honor, I do have one last comment.  
22 But on the idea of cameras in the courtroom, I am entitled to  
23 any notice before it is -- as the Court is aware, that the  
24 people that are requesting to come into the courtroom have to

1 give us notice. And I did not receive any notice of any  
2 cameras. And I would have objected if any cameras tried to  
3 come in, independent of what the Court did. So I just want  
4 Mr. Hillygus to know he's bringing trying to get cameras in,  
5 they've got to notify me, too.

6 THE COURT: So there's a process if the media wants  
7 to have a camera in here. And we allow cameras in the  
8 courtroom on most occasions, as long as public safety can be  
9 assured, and it's not going to work to the detriment of  
10 orderly proceedings. But oftentimes more than one media  
11 outlet wants to report on a hearing or trial. And so we  
12 huddle up ahead of time, and we make sure that one of the  
13 medias or assistants designated as the pool camera, and that  
14 camera can be in here, and one only. And they have to link  
15 up on that, use the information that the pool camera uses.

16 But there's a process. A request has to be made, and  
17 counsel have an opportunity, and you, as well, Mr. Hillygus,  
18 would have an opportunity to be heard.

19 Mr. Stege.

20 MR. STEGE: Only to broadcast that, if that were to  
21 occur, I will likely join Mr. Pitaro's position in that. So  
22 I also would request notice and opportunity to be heard. I  
23 know typically that goes direct to the judge, and the judge  
24 makes that decision independently. In this instance, I would

1 likely ask to be heard.

2 THE COURT: I'll give all parties, represented or  
3 not, the opportunity to be heard and weigh in.

4 And I may allow them over the objection of someone.  
5 I may keep them out over the objection of someone. I'll give  
6 due weight to any voice that wants to be heard.

7 But I want to make sure we're clear on something.  
8 There's a difference between an open proceeding and a closed  
9 proceeding.

10 Closed means just the parties. And sometimes the  
11 transcript is sealed, the record is sealed. Only the parties  
12 have a right to hear what's going on.

13 This hearing, this case is not closed. It is not  
14 closed. Any person who gets through security and has  
15 business, anyone interested in the outcome of this matter has  
16 a right to come in, sit in the back and observe. That means  
17 it's open.

18 Cameras and video and recorded, that's a different  
19 issue. And that will be the subject of a proper request and  
20 the Court's decision after allowing interested persons to  
21 weigh in.

22 Okay. Got it?

23 MR. PITARO: Yes, Your Honor.

24 DEFENDANT HILLYGUS: Two final points, Your Honor.

1 THE COURT: Go ahead.

2 DEFENDANT HILLYGUS: I have a question regarding: Is  
3 this court proceeding as a court of record per the law?

4 THE COURT: It is a court of record. And we make a  
5 transcript of everything that happens in court. And it's a  
6 court of record. And in the event there's appellate review  
7 of any decision of the Court or any ultimate decision, it  
8 will be available for the appellate court to review.

9 What is your second question? I have a hard stop at  
10 3:00 o'clock. I have a hearing I have to get to.

11 DEFENDANT HILLYGUS: Is this court proceeding as a  
12 court of equity?

13 THE COURT: Is this court a court of equity? We are  
14 proceeding as a court of law, not as a court of equity.

15 That's a question that wasn't anticipated. That's  
16 generally not a question for somebody presiding in District  
17 Court on a criminal justice matter.

18 Have you ever heard that question before? No.

19 MR. STEGE: I hate to say I have, but in a similar  
20 context. But the Court is right. This is a court of law.

21 THE COURT: All right. Okay.

22 MR. PITARO: Your Honor, that goes back to, the  
23 common law in the western United States is different than the  
24 east.

1 THE COURT: Okay. That will conclude this hearing.

2 Thank you, everyone.

3 An order should go out Monday with respect to the  
4 pre-trial conference.

5 And court is in recess.

6 Have a nice afternoon.

7 Thank you.

8 (Recess.)

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1 STATE OF NEVADA )

2 COUNTY OF WASHOE )

3

4 I, ISOLDE ZIHN, a Certified Shorthand Reporter of the  
5 Second Judicial District Court of the State of Nevada, in and  
6 for the County of Washoe, do hereby certify:

7 That I was present in Department 8 of the  
8 above-entitled court on Thursday, October 28, 2021, at the  
9 hour of 1:05 p.m. of said day, and took verbatim stenotype  
10 notes of the proceedings had upon the matter of THE STATE OF  
11 NEVADA, Plaintiff, versus ROGER HILLYGUS & STEWART HANDTE,  
12 Defendants, Case No. CR19-1535A & B, and thereafter reduced  
13 to writing by means of computer-assisted transcription as  
14 herein appears;

15 That the foregoing transcript, consisting of pages 1  
16 through 80, all inclusive, contains a full, true and complete  
17 transcript of my said stenotype notes, and is a full, true  
18 and correct record of the proceedings had at said time and  
19 place.

20 Dated at Reno, Nevada, this 30th day of October,  
21 2021.

22

23

24

/s/ Isolde Zihn  
Isolde Zihn, CCR #87